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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1965

NO. 973

RICHARD H. M. SWANN,
and
SUPERVISOR OF ELECTIONS
of Dade County, Florida
Appellants,

vs.

TOM ADAMS, Secretary of State of the State of Florida; E. L. GATES, Supervisor of Registration of Broward County, Florida; and W. B. FREEMAN, Supervisor of Registration of Monroe County, Florida,
Appellees.

On Appeal From the United States District Court
In and For the Southern District of Florida

STATEMENT OF APPELLEES OPPOSING JURISDICTION AND MOTION TO AFFIRM

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On Appeal From the United States District Court
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STATEMENT OF APPELLEES OPPOSING JURISDICTION AND MOTION TO AFFIRM

PRELIMINARY STATEMENT

On January 29, 1966, the Appellants forwarded to this Court their jurisdictional statement supplementing their appeal from an order of the United States District Court for the Southern District of Florida, which order approved as an interim plan, the reapportionment statute enacted by the Florida Legislature, as modified by the Court. The Appellees, believing that the matters set forth herein will demonstrate the lack of substance in the questions sought to be presented by such appeal, file this Statement in Opposition to Appellants Jurisdictional Statement and include their Motion to Affirm the Judgment of the Court below, upon the ground that the question on which the decision of this cause depends is so unsubstantial as to obviate further argument.

PRIOR PROCEEDINGS

Pursuant to a mandate of the United States District Court for the Southern District of Florida on January 8, 1965, ordering the Florida Legislature to validly reapportion itself by July 1, 1965, in accordance with the standards of one man—one vote, and the enactment by the Florida Legislature of a reapportionment act, the Court below considered argument, briefs by the parties to this appeal and issued the order from which this appeal

is taken on December 23, 1965. The order of the District Court of January 8, 1965, and the opinion of the District Court on December 23, 1965, are set out in Appendix A and Appendix B respectively of this Statement.

STATEMENT OF FACTS

House Bill 19-XX of the Florida Legislature was duly enacted on June 30, 1965, in a conscientious effort to comply with the Court's mandate embodied in its order of January 8, 1965. Section 1(3) of this Act was stricken by the Court below in its order of December 23, 1965, and the Act in its modified form is set forth in Appendix "C." Appended to the Court modified act are exhibits of population variance and a statistical statement reflecting the overall result that 50.43% of the people in the State of Florida are enabled by the plan to elect 46.79% of the members of the House. Moreover, these statistics further reflect that 48.28% of the members of the Senate are elected by 52.35% of the population.

STATUTES INVOLVED

Under attack in this proceeding is House Bill 19-XX, Chapter 65-2440, Laws of Florida, (Appendix C) and House Bill 35-XX, Chapter 65-2446, Laws of Florida, (Appendix D).

QUESTION PRESENTED

Does the approval by the United States District Court of a legislative apportionment act, as modified by said

court, on an interim basis, constitute an abuse of discretion vested in said court?

ARGUMENT

DOES THE APPROVAL BY THE UNITED STATES DISTRICT COURT OF A LEGISLATIVE APPORTIONMENT ACT, AS MODIFIED BY SAID COURT, ON AN INTERIM BASIS, CONSTITUTE AN ABUSE OF DISCRETION VESTED IN SAID COURT?

In considering the questions as enumerated in the Appellant's Jurisdictional Statement, the Appellees contend that the substantive question involved in this review is more accurately stated in a question propounded in abuse of discretion. The Court in its opinion, which opinion is attached as Appendix "B", found the constitutional deficiency to be solely in the allocation of senators and representatives, among the citizens of the state. The Appellee urges that the principle to which we must adhere is that both houses of bicameral legislature must be apportioned on the basis of population as the main and overriding factor, while the guidelines are not definite as to detail. The Supreme Court of the United States has indicated a population-variance ratio of more than 2 to 1 would not meet the standard, *Reynolds v. Sims*, 377 U.S. 533; 12 L. ed 2d 506; 84 S.Ct. 1362, (and other companion cases); that a population of 1.17 to 1 might be arguable, *Lucas v. Colorado General Assembly*, 377 U.S. 713, 12 L. ed 2d 632, 84 S. Ct. 1472; and a United States

District trial court has said that a population variance greater than 15% from the mean or average district would not be acceptable, *Henry J. Toombs et al v. Ben W. Fortson, Jr.*, et al, 241 F. Supp 65, 1965. The Appellees do not contend that House Bill 19-XX meets these standards. It is urged, however, that the Senate does meet the standard inferentially approved in *Lucas*, supra. On the other hand, it appears that neither plan meets the standard announced in *Toombs v. Fortson*, supra.

The Appellees set forth this position clearly to the United States District Court below and that court considered, in view of the statements referred above, solutions to this problem. The Court stated:

> ". . . In attempting to solve problems of the legislative apportionment factors other than one person—one vote may loom large. Adjacent counties, neither of which has a population sufficient to have a senator or representative by itself, may be so wholly different in economic character that it would be inadvisable to unite them for the purpose of legislative representation. We can recognize that such problems can and do exist *but we have no claim to the competence required to solve them.* It is the belief of the Court that the Florida Legislature, as it will be constituted under the statute with the Section 1(3) senators eliminated, will have a majority such as will permit, if there be the will to do so, a correction of the malapportionment which exists under the act." (Emphasis ours)

The Appellees submit that this Court had in many instances in the long and protracted litigation in this cause indicated its reluctance to reapportion the state by judicial fiat and has always indicated its desire and even urged that the legislature itself, being the voice of the people of the State of Florida, effectuate valid reapportionment. The court clearly realized that a major break-through had been made in the bill under attack here. The balance of power had been shifted from the least populous counties to the most populous counties. The statistical compilation in Appendix C-1 and C-2 indicate beyond question the balance of power shift, which will enable the newly elected legislature to fully comply with the Court's one man—one vote mandate.

The support of the approval of House Bill 19-XX and 35-XX on an interim basis is not a new position in reapportionment cases, where vast advances are recognized notwithstanding that a reapportionment plan has fallen short of constitutional requirements, see *Toombs v. Fortson*, supra, wherein the Court stated:

> "We deem the duty of the court in a case such as this to rest on two considerations. First, the constitutional rights of plaintiffs must be accorded, and, if possible, by the state and not the court. Second, this should be accomplished within the ambit of the public interest that is involved in allowing the state political and governmental process to function

in a manner so as to do as little harm as possible to other areas and functions for which the state is responsible.

Substantial progress toward the goal of fair representation has been made. True, there is a ways to go and it is to be hoped that the reapportioned General Assembly will now finish the job. In any event we have determined to accept the proposed House plan of apportionment and the current Senate plan of apportionment as interim plans to be used on stated conditions and until proper apportionment becomes a fact. We are persuaded to this course by the view that the General Assembly of Georgia has been inordinately involved in apportionment since the fall of 1962, and for that reason have concluded to withhold further action in the case until the end of the 1967-68 regular session of the General Assembly, or May 1, 1968, whichever may be the earlier."

CONCLUSION

After extensive consideration of the constitutional deficiencies alleged by the Appellants here, plaintiffs below, to be present in the challenge of reapportionment statutes, the District Court declared:

"1. The plan of apportionment of the Florida legislature, as made by HB 19-XX enacted at its special session in 1965, in both the Senate and House of Representatives does not meet the requirements of the Equal

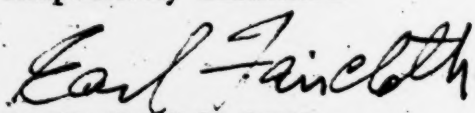
Protection Clause of the Federal Constitution as construed and applied in Reynolds v. Sims, supra, and other decisions of the Supreme Court. The apportionment made by said statute, as herein modified, is approved as an interim plan for a period ending sixty days after the adjournment of the 1967 regular session of the Florida legislature;

2. The provisions of Section 1(3) of said statute are in violation of the Equal Protection Clause of the Federal Constitution. The statute, and the plan of apportionment thereby enacted, are modified by deleting and striking therefrom the aforesaid Section 1(3); and

3. The Court retains jurisdiction of this cause until such time as there shall be an adjudication that a valid plan of legislative apportionment has been enacted, or until such a plan has been made effective by a decree of this Court."

The Appellees respectfully urge this court that there is not demonstrated in this appeal any abuse of discretion committed by the lower court, a trial court fully informed of all issues involved in this proceeding.

Respectively submitted



EARL FAIRCLOTH
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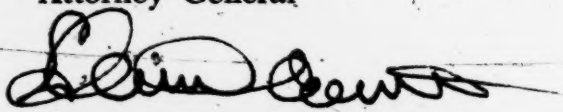

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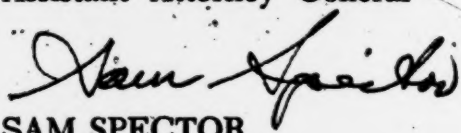

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Counsel for Appellees.

APPENDICES

Appendix A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PETER B. SOBEL, on behalf of himself, and others similarly situated,
Plaintiffs,

v. No. 182-62-M-CIVIL

TOM ADAMS, Secretary of State of the State of Florida,
Defendant.

RICHARD H. M. SWANN,
Plaintiff,

v. No. 186-62-M-CIVIL

TOM ADAMS, Secretary of State of the State of Florida, et al,
Defendants.

ORDER

Upon consideration, it is
ORDERED:

1. Petition to Intervene of Herman W. Goldner is hereby denied.

2. Petition for Order on Mandate of Lee Weissenborn is hereby denied.

3. Petition of League of Women Voters of Florida to file Brief Amicus Curiae is hereby granted.

4. Petition of the Government Research Council of the Miami-Dade County Chamber of Commerce for Leave to File Brief Amicus Curiae is hereby granted.

5. The Court finds that Peter B. Sobel has no further standing in the consolidated cases. Petition of said Peter Sobel to declare the statutes and proposed constitutional amendment providing for 43 senators and 112 house members unconstitutional and for further relief in accordance with the United States Supreme Court decision is hereby denied.

6. Action is hereby deferred until further order of the Court upon all pending or undisposed of prayers in Petition of Richard H. M. Swann filed on July 20, 1964, and further Petition of said Richard H. M. Swann filed on November 12, 1964, for Order on Mandate and Motion for Hearing.

7. Action is hereby deferred on Petition filed on December 29, 1964, by Claude Brown, Supervisor of Registration of Dade County, Florida, for hearing and order in accordance with decision of the Supreme Court of the United States.

8. The matters specified in paragraphs numbered 6 and 7, above, upon which action is presently deferred,

will be promptly reconsidered by this Court if the Legislature of Florida has not validly reapportioned itself by July 1, 1965, in accordance with the standards as laid down by the Supreme Court of the United States.

DONE AND ORDERED at Miami, Florida, this 8th day of January, 1965.

s/ WARREN L. JONES
Warren L. Jones
United States Circuit Judge

s/ WM. A. McRae, Jr.
Wm. A. McRae, Jr.
United States District Judge

I concur in paragraphs 1 through 5 and I respectfully dissent as to paragraphs 6, 7 and 8 of the foregoing Order.

s/ DAVID W. DYER
David W. Dyer
United States District Judge

Appendix B

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION

RICHARD H. M. SWANN,)
Plaintiff,)
v.) No. 186-62-M-CIVIL-DD
TOM ADAMS, Secretary)
of State of the State)
of Florida, et al.,)
Defendants.)

Before JONES, Circuit Judge, and McRAE and DYER, District Judges

PER CURIAM:

Before this Court for determination is the question of the constitutional validity of a statute of Florida enacted at a 1965 Special Session of its Legislature, designated as HB 19-XX, providing for the apportionment of the membership of the Florida State Senate and House of Representatives. A copy of the statute is annexed as an appendix. The statutory apportionment as made by HB 19-XX has been subjected to several grounds of attack. It is urged that the provisions of Section 1(3) are invalid. This Section continues in office those senators, whose districts have been abolished, for the remainder of the term to which they were elected, which would be until

the general election of November, 1968. It is contended that the provisions of Section 1(5) of the Act cannot be upheld. This Section requires that where two or more counties are assigned more than one senatorial district, no two senators representing any district comprised of such counties shall reside in the same county until each county has a senator residing and qualified to vote therein. It is said that the subdistricting of Dade County but not other counties is an unwarranted discrimination. The most serious of the questions presented are those which deal with the one man-one vote, equality of representation principle. Other issues are raised but are, in the Court's opinion, without merit and without sufficient plausibility to require discussion.

It seems apparent that the carrying forward into a newly constituted legislature those senators, previously elected, who no longer have a constituency cannot be upheld. To permit these senators to serve who will no longer be representing any electors would result in giving an added weight to the votes of the electors of those areas from which they were originally chosen. To eliminate this inequality the Act (HB 19-XX) must be modified by the deletion of Section 1(3).

It is not shown that Section 1(5) is unconstitutional. The effect of this Section is to prevent the election of two or more senators from any county until a senator has been elected from each county where two or more counties are combined in two or more senatorial districts. By way of example, Duval County, with a 1960 population of 455,411, is combined with Nassau County, with a popu-

lation of 17,189, and St. Johns County, with a population of 30,034, in senatorial districts numbered 16, 18, 21, 31, 33 and 58. Thus it is provided that Nassau, with about three percent of the population of the districts and St. John's with about six percent of the population of the districts, will each have one-sixth of the senatorial representation from the multi-county districts. The provision relates to residence of the senators and not to the voting strength of those who elect them. Although each county of the multi-county districts is entitled to have a senator resident within it, the tenure of such senators depends upon the district-wide electorate. Such senator represents, not the county where he resides, but the district. The weight of the voter in the most populous of the multi-county districts (Duval County in the stated example) for senators to represent him is approximately equal in weight to voters in the less populous counties. This question is the same as was decided in Fortson v. Dorsey, 379 U.S. 433, 85 S.Ct. 498, 13 L.Ed. 2d 401, where several districts were within a county. It has not been suggested that the residence requirement in the Florida statute was intended to minimize or cancel out the voting strength of racial or political elements of the voting population, or that it would have such effect. Cf. Fortson v. Dorsey, supra.

Dade and Monroe Counties comprise six senatorial districts under the statute. Two districts, numbered 12 and 39, are composed of that part of Dade County comprising the third congressional district as it existed on June 1, 1965. Two other districts, numbered 40 and 41, are made up of that portion of Dade and Monroe Counties comprising the fourth congressional district as it existed on

June 1, 1965. In no other instance are legislators elected from districts with other boundaries than county lines. It is asserted that this is an illegal discrimination. It has not been made to appear that these districts were set up for the purpose of lessening or enhancing the weight of the votes of the citizens residing in these districts, or that it was designed to or did affect the voting strength of any racial or political group. This being so, it cannot be said that the Federally protected right of equality of voting strength has been violated. If there has been any resulting injustice it is a political one for which a political remedy should be sought.

We are now brought to the problem as to whether the allocation of senators and representatives among the citizens of the State is so disproportionate as to amount to the invidious discrimination which has been condemned as violative of the Equal Protection Clause. Efforts have been made by some of the amici curiae to defend the legislative enactment, and to persuade us that the statutory departures from the equal population principal are within permissible limits. The Attorney General of Florida, with commendable candor, concedes that the standard has not been met, but urges that we should once more afford the State of Florida, acting through its legislature, an opportunity to put its legislative house in order. If this can be done we think it should be done. In attempting to solve problems of the legislative apportionment factors other than one person-one vote may loom large. Adjacent counties, neither of which has a population sufficient to have a senator or representative by itself, may be so wholly different in economic character that

it would be inadvisable to unite them for the purpose of legislative representation. We can recognize that such problems can and do exist but we have no claim to the competence required to solve them. It is the belief of the Court that the Florida legislature, as it will be constituted under the statute with the Section 1(3) senators eliminated, will have a majority such as will permit, if there be the will to do so, a correction of the malapportionment which exists under the Act. In accepting the legislative enactment as an interim measure, the Court does not overlook the prior indulgence which had been granted but we are reminded that our prior order was entered before the guidelines of Reynolds v. Sims, supra, and other decisions of the Supreme Court had been drawn. In affording a further opportunity to the Florida legislature to adopt a constitutionally acceptable apportionment, we have the confident hope that there will be a recognition, by the legislative bodies, of the paramount necessity of conforming to the constitutional requirement that "both houses of a state legislature must be apportioned on a population basis," and that the "state make an honest and good faith effort to construct districts in both houses of its legislature, as nearly of equal population as is practicable." Reynolds v. Sims, 377 U.S. 533, 577, 84 S. Ct. 1362, 12 L.Ed. 2d 506. Precise exactness cannot, of course, be achieved but only such minimal departures as necessity demands will be permitted. Variations are to be sanctioned only when they cannot be avoided. We do not think it can be assumed that the fifteen percent variance allowed in Toombs v. Forston, N.D. Ga. 1965, 241 F. Supp. 65, establishes a rule of tolerance that will be followed as a

legal principle. If the Florida legislature does not adopt a valid plan of apportionment then this Court must do so; and so that it may, if need be, do so, jurisdiction will be retained. No further action will be taken by the Court until the adjournment of the next regular session of the legislature or, in the event it shall not have enacted reapportionment legislation, until the lapse of the time required to convene and hold a legislative special session for reapportionment.

ORDER

The premises considered, it is ORDERED, ADJUDGED and DECREED that:

1. The plan of apportionment of the Florida legislature, as made by HB 19-XX enacted at its special session in 1965, in both the Senate and House of Representatives does not meet the requirements of the Equal Protection Clause of the Federal Constitution as construed and applied in Reynolds v. Sims, supra, and other decisions of the Supreme Court. The apportionment made by said statute, as herein modified, is approved as an interim plan for a period ending sixty days after the adjournment of the 1967 regular session of the Florida legislature;

2. The provisions of Section 1 (3) of said statute are in violation of the Equal Protection Clause of the Federal Constitution. The statute, and the plan of apportionment thereby enacted, are modified by deleting and striking therefrom the aforesaid Section 1 (3); and

3. The Court retains jurisdiction of this cause until such time as there shall be an adjudication that a valid plan of legislative apportionment has been enacted, or until such a plan has been made effective by a decree of this court.

DONE, ORDERED and DECREED this 23rd day of December, 1965.

/s/Warren L. Jones
Warren L. Jones
United States Circuit Judge

/s/Wm. A. McRae, Jr.
William A. McRae, Jr.
United States District Judge

/s/David W. Dyer
David W. Dyer
United States District Judge

Appendix C

Chapter 65-2440
House Bill No. 19-XX
A bill to be entitled

An act to provide for the apportionment of the membership of the senate and the house of representatives of the legislature of the state of Florida; providing for subdistricting; repealing sections 10.01, 10.02, 10.03 and 10.04, Florida Statutes; prescribing terms of of-

fice of members of both houses; providing for continuance in office by members until the general election in November, 1966; providing for continuance in office of certain senators until 1968; providing for elections; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) The representation of the people of the state in the senate of the state shall continue as now constituted until the general election to be held in November, 1966. Thereafter, the representation of the senate of the state shall be as set forth in this section.

(2) The representation in the senate of the Florida legislature shall consist of fifty-eight (58) members, each representing a district, which districts are created and numbered as follows:

First district — Escambia and Santa Rosa counties, provided, however, the senator serving from the present first district shall be the senator from the first district until the general election of 1968.

Second district — Escambia and Santa Rosa counties.

Third district — Okaloosa and Walton counties, provided, however, that the senator serving from the present thirty-ninth district shall be the senator from the third district until the general election of 1968.

Fourth district — Jackson, Calhoun, Washington and Holmes counties.

Fifth district — Gulf, Liberty, Wakulla, Gadsden and Franklin counties.

Sixth district — Polk county.

Seventh district — Polk county, provided, however, that the senator serving from the present seventh district shall be the senator from the seventh district until the general election of 1968.

Eighth district — Leon county.

Ninth district — Hernando, Sumter, Citrus and Pasco counties.

Tenth district — Jefferson, Madison, Taylor, Hamilton, Columbia, Suwannee, and Lafayette counties.

Eleventh district — Pinellas county provided, however, that the senator serving from the present eleventh district shall be the senator from the eleventh district until the general election of 1968.

Twelfth district — That portion of Dade county comprising the third congressional district as it existed on June 1, 1965.

Thirteenth district — Dade and Monroe counties, provided, however, that the senator serving from the present thirteenth district shall be the senator from the thirteenth district until the general election 1968.

Fourteenth district — Pinellas county.

Fifteenth district — Baker, Bradford, Clay, Union, Putnam and Flagler counties.

Sixteenth district — Duval, Nassau, and St. Johns counties.

Seventeenth district — St. Lucie, Indian River and Martin counties.

Eighteenth district — Duval, Nassau, and St. Johns counties.

Nineteenth district — Orange and Seminole counties, provided, however, that the senator serving from the present nineteenth district shall be the senator from the nineteenth district until the general election of 1968.

Twentieth district — Orange and Seminole counties.

Twenty-first district — Duval, Nassau, and St. Johns counties.

Twenty-second district — Sarasota county.

Twenty-third district — Lake and Osceola counties, provided, however, that the senator serving from the present twenty-third district shall be the senator from the twenty-third district until the general election of 1968.

Twenty-fourth district — Lee, Hendry, and Collier counties.

Twenty-fifth district — Bay county, provided, however, that the senator serving from the present twenty-fifth district shall be the senator from the twenty-fifth district until the general election of 1968.

Twenty-sixth district — Pinellas county.

Twenty-seventh district — Marion, Dixie, Levy and Gilchrist counties.

Twenty-eighth district — Volusia and Brevard counties.

Twenty-ninth district — Hardee, DeSoto, Okeechobee, Glades, Charlotte, and Highlands counties.

Thirtieth district — Broward county.

Thirty-first district — Duval, Nassau, and St. Johns counties, provided, however, that the senator serving from the present thirty-first district shall be the senator from the thirty-first district until the general election of 1968.

Thirty-second district — Alachua county.

Thirty-third district — Duval, Nassau, and St. Johns counties.

Thirty-fourth district — Hillsborough county.

Thirty-fifth district — Palm Beach county, provided, however, that the senator serving from the present thirty-fifth district shall be the senator from the thirty-fifth district until the general election of 1968.

Thirty-sixth district — Manatee county.

Thirty-seventh district — Volusia and Brevard counties, provided, however, that the senator serving from the present thirty-seventh district shall be the senator from the thirty-seventh district until the general election of 1968.

Thirty-eighth district — Volusia and Brevard counties.

Thirty-ninth district—That portion of Dade county comprising the third congressional district as it existed on June 1, 1965.

Fortieth district — That portion of Dade and Monroe counties comprising the fourth congressional district as it existed on June 1, 1965.

Forty-first district — That portion of Dade and Monroe counties comprising the fourth congressional district as it existed on June 1, 1965, provided, however, that the senator serving from the present forty-first district shall be the senator from the forty-first district until the general election of 1968.

Forty-second district — Orange and Seminole counties.

Forty-third district — Dade and Monroe counties, provided, however, that the senator serving from the present forty-third district shall be the senator from the forty-third district until the general election of 1968.

Forty-fourth district — Dade and Monroe counties.

Forty-fifth district — Orange and Seminole counties.

Forty-sixth district — Dade and Monroe counties.

Forty-seventh district — Pinellas county.

Forty-eighth district — Dade and Monroe counties.

Forty-ninth district — Palm Beach county.

Fiftieth district — Palm Beach county.

Fifty-first district — Broward county.

Fifty-second district — Dade and Monroe counties.

Fifty-third district — Broward county.

Fifty-fourth district — Broward county.

Fifty-fifth district — Hillsborough county.

Fifty-sixth district — Hillsborough county.

Fifty-seventh district — Hillsborough county.

Fifty-eighth district — Duval, Nassau, and St. Johns counties.

(4) The even numbered senatorial districts shall be filled in the general election of November, 1966, and shall be for four-year terms. The odd numbered senatorial districts, except as to any district for which specific pro-

vision has been made herein for representation by a present senator for that district until the general election of 1968, shall be filled in the general election of November, 1966, initially for a two-year term. Thereafter, all odd numbered senatorial districts shall be filled for four-year terms.

(5) Where the same two or more counties or portions thereof are assigned more than one (1) senatorial district, no two (2) senators each representing any district comprised of said counties shall reside in the same county until each county in said district has a senator residing in said county who is a qualified elector of that county. The secretary of state shall establish for the necessary number of districts such residential qualifications for candidates as shall be required to accomplish the purposes of this subsection.

(6) Any senator elected in 1964 and designated herein by a district bearing the letter "X" may run in 1966 for a new two (2) or four (4) year senatorial office if there is a vacancy in the district of his residence, provided that prior to qualifying for the new two (2) or four (4) year term he resigns from the office to which he was elected in 1964.

Section 2. The house of representatives of the Florida legislature shall consist of one hundred nine (109) members apportioned among the counties according to the latest federal decennial census of population. Until reapportioned according to the census of 1970 the representation in the house of representatives shall be apportioned as follows:

County or Counties	Number of Members
Dade	18
Duval	9
Hillsborough	9
Pinellas	8
Broward	7
Orange	5
Palm Beach	5
Polk	4
Escambia	3
Volusia	3
Brevard	3
Sarasota	1
Leon	1
Alachua	1
Manatee	1
Bay	1
Okaloosa	2
Lake	1
Seminole	1
Lee	1
Marion	1
Monroe	1
Gadsden	1
St. Lucie	1
Pasco	1
Jackson	1
Osceola	1
Santa Rosa	1
Putnam	1
Indian River	1

County or Counties	Number of Members
Walton, Holmes, Washington	1
Gulf, Calhoun, Liberty	1
Franklin, Wakulla, Jefferson	1
Taylor, Madison	1
Lafayette, Suwannee, Hamilton	1
Columbia, Union	1
Baker, Nassau	1
Bradford, Clay	1
St. Johns, Flagler	1
Dixie, Levy, Citrus, Gilchrist	1
Hernando, Sumter	1
DeSoto, Hardee	1
Okeechobee, Martin	1
Hendry, Collier, Glades	1
Highlands, Charlotte	1

Section 3. Senators and members of the house of representatives shall reside in and be elected at large by the voters in the respective counties or districts for which they were chosen; provided, however, that when any county has more than ten (10) representatives, it shall be divided into districts by an act of this legislature, the number of such districts to be the number of representatives in excess of ten (10) and the representatives in excess of ten (10) to be a qualified elector of and reside in and be elected by the qualified electors in their respective districts.

Section 4. All senators, except as to those to be elected to new initial two (2) year terms as provided for in section one (1) herein, and except when vacancies are to be filled, are to be elected for four (4) years. Members of

the house of representatives are to be elected for two (2) years.

Section 5. The provisions of this act are severable and if any word, sentence, paragraph, subsections or sections of the act shall for any reason be held void or unconstitutional by any court of competent jurisdiction, the decision of said court shall not affect or impair the validity of any of the remaining words, sentences, paragraphs, subsections or sections of this act.

Section 6. Candidates for offices created herein shall be nominated in 1966 in the manner provided by law and the offices shall be filled at the general election November, 1966. For all other purposes, this act shall take effect at the close of the polls at the general election in 1966 and sections 10.01, 10.02, 10.03 and 10.04, Florida Statutes, shall thereupon stand repealed.

Became a law without the Governor's approval.
Filed in Office Secretary of State, July 7, 1965.

Appendix C-1

109 Representatives

Maximum Population-Variance Ratio of 4.04 to 1
50.43% of the Population elects 46.79% of the House

Counties	No. of Rep.	Total Pop.	Aver. Pop. per Rep.	Percent Variation Under Aver.	Percent Variation Over Aver.
Dade (8 by districts and 10 at large)	18	935,047	51,947		14.35
Duval	9	455,411	50,601		11.39
Hillsborough	9	397,788	44,199	2.70	
Pinellas	8	374,665	46,833		3.10
Broward	7	333,946	47,707		5.02
Sub-totals	51	2,496,857	48,958	24.30	420.75
Orange	5	263,540	52,708		16.03
Palm Beach	5	228,106	45,621		0.43
Polk	4	195,139	48,785		7.39
Escambia	3	173,829	57,943		27.55
Volusia	3	125,319	41,773	8.04	
Brevard	3	111,435	37,145	18.23	
Sarasota	1	76,895	76,895*		69.27
Leon	1	74,225	74,225		63.40
Alachua	1	74,074	74,074		63.06
Manatee	1	69,168	69,168		52.26
Bay	1	67,131	67,131		47.78
Okaloosa	2	61,175	30,588	32.67	
Lake	1	57,383	57,383		26.32
Seminole	1	54,947	54,947		20.96
Lee	1	54,539	54,539		20.06
Marion	1	51,616	51,616		13.63
Monroe	1	47,921	47,921		5.49
Gadsden	1	41,989	41,989	7.57	
St. Lucie	1	39,294	39,294	13.50	
Pasco	1	36,785	36,785	19.02	

Counties	No. of Rep.	Total Pop.	Aver. Pop. per Rep.	Percent Variation Under Aver.	Over Aver.
Jackson	1	36,208	36,208	20.29	
Putnam	1	32,212	32,212	29.09	
Santa Rosa	1	29,547	29,547	34.96	
Indian River	1	25,309	25,309	44.29	
Osceola	1	19,029	19,029†	58.11	
Walton, Holmes & Washington	1	37,669	37,669	17.08	
					(cont.)
Gulf, Calhoun & Liberty	1	20,497	20,497	54.88	
Franklin, Wakulla & Jefferson	1	21,376	21,376	52.94	
Taylor & Madison	1	27,322	27,322	39.86	
Lafayette, Suwannee & Hamilton	1	25,555	25,555	43.74	
Columbia & Union	1	26,120	26,120	42.48	
Baker & Nassau	1	24,552	24,552	45.95	
Bradford & Clay	1	31,981	31,981	29.60	
St. Johns & Flagler	1	34,600	34,600	23.83	

Counties	No. of Rep.	Total Pop.	Aver. Pop. per Rep.	Percent Variation Under Aver.	Over Aver.
Dixie, Levy, Citrus, & Gilchrist	1	26,979	26,979	40.61	
Hernando & Sumter	1	23,074	23,074	49.21	
DeSoto & Hardee	1	24,053	24,053	47.05	
Okeechobee & Martin	1	23,356	23,356	48.59	
Hendry, Collier & Glades	1	26,822	26,822	40.96	
Highlands & Charlotte	1	33,932	33,932	25.30	
Totals	109	4,951,560	45,427	997.36	997.49

* Largest population per Representative

† Smallest population per Representative

Legislative Reference Bureau
July 13, 1965

DEFENDANT'S EXHIBIT NO. II

Appendix C-2

58 Senatorial Districts

Maximum Population—Variance Ratio of 1.55 to 1

52.35% of the Population elects 48.28% of the Senate

New Sen. Dists.	Counties	No. of Sen.	Total Pop.	Aver. Pop. per Sen.	Percent Variation Under Aver.	Percent Variation Over Aver.
12, 39	North Dade					
40, 41	South Dade & Monroe					
13, 43, 44, 46, 48, 52	Dade & Monroe	10	982,968	98,297		15.14
16, 18, 21, 31, 33, 58	Duval, Nassau, St. Johns	6	502,634	83,772	1.87	
34, 55, 56, 57	Hillsborough	4	397,788	99,447		16.49
11, 14, 26, 47	Pinellas	4	374,665	93,666		9.72

DEFENDANT'S EXHIBIT NO. III

(cont.)

New Sen. Dists.	Counties	No. of Sen.	Total Pop.	Aver. Pop. per Sen.	Percent Variation Under Aver.	Percent Variation Over Aver.
30, 51, 53, 54	Broward	4	333,946	83,487	2.21	
	Sub-totals	28	2,592,001	92,571	20.06	256.24
19, 20, 42 45	Orange & Seminole	4	318,487	79,622	6.74	
35, 49, 50	Palm Beach	3	228,106	76,035	10.94	
6, 7	Polk	2	195,139	97,570		14.29
1, 2	Escambia & Santa Rosa	2	203,376	101,688(L)		19.11
28, 37, 38	Volusia & Brevard	3	236,754	78,918	7.56	
22	Sarasota	1	76,895	76,895	9.93	
8	Leon	1	74,225	74,225	13.06	
32	Alachua	1	74,074	74,074	13.23	
36	Manatee	1	69,168	69,168	18.98	

DEFENDANT'S EXHIBIT NO. III (cont'd.)

(cont.)

New Sen. Dists.	Counties	No. of Sen.	Total Pop.	Aver. Pop. per Sen.	Percent Variation Under Aver.	Over Aver.
25	Bay	1	67,131	67,131	21.37	
3	Okaloosa & Walton	1	76,751	76,751	10.10	
23	Lake & Osceola	1	76,412	76,412	10.50	
24	Lee, Collier & Hendry	1	78,411	78,411	8.15	
27	Marion, Levy, Dixie & Gilchrist	1	69,327	69,327	18.79	
5	Gadsden, Liberty, Gulf Franklin & Wakulla	1	66,897	66,897	21.64	
17	St. Lucie, Indian River, & Martin	1	81,535	81,535	4.49	
9	Pasco, Sumter, Herriando & Citrus	1	69,127	69,127	19.03	
4	Jackson, Calhoun, Holmes & Washington	1	65,723	65,723(S)	23.02	

DEFENDANT'S EXHIBIT NO. III (cont'd.)

(cont.)

New Sen. Dists.	Counties	No. of Sen.	Total Pop.	Aver. Pop. per Sen.	Percent Variation Under Aver.	Over Aver.
15	Putnam, Flagler, Clay, Bradford, Union & Baker	1	82,165	82,165	3.76	
29	Highlands, Hardee, DeSoto, Charlotte, Glades & Okeechobee	1	67,359	67,359	21.10	
10	Columbia, Hamilton, Suwannee, Lafayette, Madison, Taylor & Jefferson	1	82,497	82,497	3.37	
58	Totals	58	4,951,560	85,372	323.04	323.04

DEFENDANT'S EXHIBIT NO. III (cont'd)

(L) Largest population per Senator
(S) Smallest population per Senator
Legislative Reference Bureau
July 13, 1965

Terms of Office of Senators

New Senate District	Odds		Evens
	1964-68	1966-68	1966-70
1	1		
2			•
3	39		
4	3X		•
5	5X	•	
6			•
7	7		
8			•
9	9X	•	
10	17X		•
11	11		
12			•
13	13		
14			•
15	15X	•	
16			•
17	29X	•	
18			•
19	19		
20			•
21		•	
22			•
23	23, 33X		
24			•
25	25		
26			•
27	21X	•	

New Senate District	Odds 1964-68	Odds 1966-68	Evens 1966-70
28			•
29	27X	•	
30			•
31	31		
32			•
33		•	
34			•
35	35		
36			•
37	37		
38			•
39		•	
40			•
41	41		
42			•
43	43		
44			•
45		•	
46			•
47		•	
48			•
49		•	
50			•
51		•	
52			•
53		•	
54			•
55		•	

New Senate District	Odds 1964-68	1966-68	Evens 1966-70
56			
57			
58			
Totals	22	16	29

Legislative Reference Bureau
July 13, 1965

DEFENDANT'S EXHIBIT NO. IV

Appendix D

Chapter 65-2446

A bill to be entitled

An act relating to legislative districts when required by law; providing for the composition of districts in Dade County; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Whenever by law the county of Dade shall be required to be divided into eight (8) districts for the purposes of the residence of, and the election of, an equal number of members of the house of representatives, the said eight (8) districts shall be as follows:

The First District shall consist of the following 39 Dade County Precinicts: 2, 3, 4, 10 through 22, 24 through 30, 211, 212, 240 through 245, 248 through 251, 253 through 255, and 315.

The Second District shall consist of the following 37 Dade County Precincts: 23, 41 through 48, 68 through 72, 213 through 219, 221, 239, 246, 247, 256 through 258, 268 through 270, 282, and 5 through 9.

The Third District shall consist of the following 46 Dade County Precincts: 32 through 40, 49 through 57, 62 through 67, 73 through 79, 259 through 264, 266, 267, 271, 272, 277 through 281.

The Fourth District shall consist of the following 39 Dade County Precincts: 83 through 106, 118 through 120, 126 through 131, 222, 223 283 through 286.

The Fifth District shall consist of the following 38 Dade County Precincts: 1, 31, 58 through 61, 80 through 82, 107 through 117, 121, 144 through 146, 148, 220, 224, 252, 265, 273 through 276, 287 and 288 through 291.

The Sixth District shall consist of the following 44 Dade County Precincts: 122 through 125, 132 through 143, 147, 149 through 160, 177 through 184, 225, 292 through 295, 308, and 309.

The Seventh District shall consist of the following 40 Dade County Precincts: 161 through 176, 185 through

191, 196 through 198, 226 through 228, 296 through 299, 304 through 307, 310, 313 and 314.

The Eighth District shall consist of the following 43 Dade County Precincts: 192 through 195, 199 through 210, 229 through 237, 300 through 303, 311, 312, 316 through 326, and 238.

Section 2. As used in this act, for the purpose only of describing a representative district, the term "precinct" means those precincts existing and on file in the office of the secretary of state as of June 1, 1965.

Section 3. This act shall take effect upon becoming a law.